

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

KREG SOLI,

Plaintiff,

v.

JPMORGAN CHASE & CO. and  
JPMORGAN CHASE BANK, N.A.,

Defendants.

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3:11-CV-00020-P

**ORDER**

Now before the Court is Plaintiff's Motion to Strike and Dismiss Certain Affirmative Defenses, filed on February 24, 2011. (Doc. No. 12.) Defendants did not file a Response to Plaintiff's Motion.

Plaintiff moves for the Court to strike Defendant's Affirmative Defenses number 1, 4, 5, 6, and 12 on the basis that they are insufficient. A court may strike an affirmative defense from a pleading if it is insufficient, redundant, immaterial, impertinent, or scandalous in nature. Fed. R. Civ. P. 12(f). "Although motions to strike a defense are generally disfavored, a Rule 12(f) motion to dismiss a defense is proper when the defense is insufficient as a matter of law." *Kaiser Aluminum & Chemical Sales, Inc. v. Avondale Shipyards, Inc.*, 677 F.2d 1045, 1057 (5th Cir. 1982).

An affirmative defense is held to the same pleading standard as the complaint. *Woodfield v. Bowman*, 193 F.3d 354, 362 (5th Cir. 1999). Rule 8(a)(2) of the Federal Rules of Civil Procedure requires the pleading to contain "a short and plain statement of the claim showing that

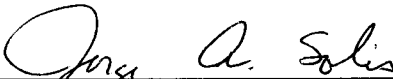
the pleader is entitled to relief." Rule 8(a) only requires "notice" pleading. Fed. R. Civ. P. 8(a)(2).

The Court has reviewed Plaintiff's Motion and finds that the affirmative defenses are insufficient and do not provide the Plaintiff adequate notice. As there was no Response from the Defendants, the Court GRANTS Plaintiff's Motion to Strike. Accordingly, Affirmative Defense number 1, 4, 5, 6, and 12 are stricken from the Answer. In addition to the Motion to Strike, Plaintiffs also move to dismiss the "offset and/or setoff" defense asserted in Affirmative Defense number 5. The Court GRANTS this motion, and the "offset and/or setoff" defense is dismissed without prejudice.

The Court GRANTS Defendants twenty days from the date of this Order to adequately replead all defenses if it so chooses.

**IT IS SO ORDERED.**

Signed this 30<sup>th</sup> day of March, 2011.

  
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JORGE A. SOLIS  
UNITED STATES DISTRICT JUDGE